



U.S. Department of Justice

Antitrust Division

*Liberty Square Building
450 5th Street, N.W.
Washington, DC 20530*

October 3, 2024

VIA ECF

Honorable Julian X. Neals, U.S.D.J.
U.S. District Court for the District of New Jersey
Martin Luther King Jr. Bldg. & U.S. Courthouse
50 Walnut Street
Newark, New Jersey 07102

**Re: *United States of America, et al. v. Apple Inc.*, No. 2:24-cv-04055 (JXN-LDW)
Format for Technology Tutorials**

Dear Judge Neals:

Plaintiffs write in response to Apple's letter filed yesterday regarding the format for the November 6 technology tutorial. ECF No. 127. Apple's letter was filed contrary to the Court's Order that "the parties shall file a joint letter to the Court outlining the format" by October 25, ECF No. 118, and with almost no warning to Plaintiffs. Plaintiffs are reviewing Apple's filing and will respond as soon as possible under the circumstances and no later than Tuesday, October 8.

Prior to Apple's filing, Plaintiffs were attempting to meet and confer with Apple regarding a joint letter and had believed that the parties would be submitting one together in advance of the October 25 deadline. On September 26, Apple proposed filing the joint letter on October 4, and a few days later, Plaintiffs proposed filing it on October 8, believing that the parties would lay out their positions in that letter, whether in agreement or not, after completing the meet-and-confer process. Plaintiffs sought a meaningful meet-and-confer with Apple on the issue of fact witness participation because, among other reasons, this specific area of disagreement had already been previewed for the Court and subject to the Court's Order. As the Court may recall, on September 19, the parties submitted a joint letter to the Court regarding the scheduling of the tech tutorial and previewed possible disagreement regarding potential fact witness participation, noting that Plaintiffs anticipate submitting a letter on the format of the tutorials. ECF No. 114. On September 23, the Court ordered the parties to submit a joint letter on the proposed format for the tech tutorial. ECF No. 118. This is, in part, why Plaintiffs believed it important to meaningfully confer with Apple about the format of the tech tutorial prior to including that issue in the joint submission.

Yesterday on October 2, Apple abruptly responded to Plaintiffs' September 30 request for a further discussion of both the substance and timing of the joint letter by stating that Apple intended to "seek clarification on the issue of employee presentations before October 8." Plaintiffs responded promptly, continuing to seek to meet and confer with Apple with the goal of preparing the Court-ordered joint letter. After several emails, Apple declined to meet with Plaintiffs yesterday, instead filing its solo letter brief with no further discussion or warning and apparently deferring future conversations about other format-related questions. Apple's letter brief states for the first time Apple's final position regarding its desired format for the tutorial and details about why it believes such format is appropriate. Prior to yesterday's letter brief, Apple had offered possible suggested formats, but had not confirmed a final position with Plaintiffs. Had the parties met, conferred, and submitted a joint letter as Plaintiffs had anticipated, they would have had time to understand, absorb, and respond as appropriate. Plaintiffs do not believe there is any basis in the Court's Order or the parties' prior dealings on this issue that allow Apple to unilaterally carve out one format-related question from the remainder of such issues.

In view of the circumstances, Plaintiffs will respond to Apple's October 2 letter brief by October 8 or any date ordered by the Court.

Respectfully submitted,

/s/ Jonathan H. Lasken

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**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

UNITED STATES OF AMERICA et al.,

Plaintiff,

v.

APPLE INC.

Defendants.

Case No. 2:24-cv-04055-JXN-LDW

CERTIFICATE OF SERVICE

I hereby certify that the above letter and this Certificate of Service were served upon defendant's counsel, Liza M. Walsh, Esq., Craig S. Primis, Esq., Devora W. Allon, Esq., and K. Winn Allen, Esq., 1301 Pennsylvania Avenue, NW, Washington, D.C., 20004, by CM/ECF on October 3, 2024.

BY: s/ Jonathan H. Lasken
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